

In re: Nicolette
USSN: 09/922,405
Filed: August 3, 2001
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Applicant's undersigned attorney explained that the species election requirement, as worded, in the February 5, 2004 Office Action (see, page 4, paragraph 2) was confusing because the "election" was referenced alternatively, *i.e.*, at least two species and which two disclosed species, in the following sentence:

Applicant is required under 35 U.S.C. 121 to specifically elect at least two species of peptide ligand from the Markush group, which two disclosed species will be considered for prosecution on the merits . . . (emphasis added).

Thus, it was unclear whether the required election was to only two species/members of the Markush group or more than two members of said group. The Examiner clarified that Applicant was required to elect not less than two members and, therefore, could opt to elect either: (a) two species/members or (b) more than two species/members (*i.e.*, 3, 4, 5, 6, . . .) of the Markush group.

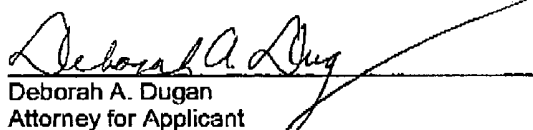
Examiner Rawlings then indicated that he would mail a Notice of Non-Responsive Reply which would provide a time period of a month (extendable) to fully respond the Restriction Requirement mailed on February 5, 2004.

Conclusion

No fee is deemed necessary in connection with the filing of this communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 07-1074.

Respectfully submitted,

07/01/04
Date


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